

# DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

## FINAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS  
DIVISION 2, CHAPTER 6.5, ARTICLES 1 AND 3  
AMEND SECTIONS 1200, 1201, AND 1213.2

### **MOTOR CARRIER SAFETY - DEFINITIONS** **(CHP-R-2000-06)** (OAL NOTICE FILE NUMBER Z01-0403-02)

#### **EXISTING REGULATIONS AND AMENDMENTS**

Vehicle Code (VC) Section 2402 authorizes the Commissioner of the California Highway Patrol (CHP) to make and enforce regulations as necessary to carry out the duties of the CHP. Sections 32002, 34501, 34501.2, and 34501.5 VC allow or require the CHP to adopt reasonable rules and regulations which are designed to promote the safe operation of vehicles described in Section 34500 VC. The adopted regulations are contained in Title 13, California Code of Regulations (13 CCR).

#### **PROBLEMS/PURPOSE**

##### 13 CCR 1200(b)(3):

13 CCR Section 1200(b)(3) incorrectly used the term “commercial vehicle” to describe those vehicles defined in Section 15210 VC. The correct term is “commercial *motor* vehicle” and that section has been amended to reflect that term. The term “commercial vehicle” is defined elsewhere in that code and is not necessarily interchangeable with “commercial motor vehicle.”

##### 13 CCR 1201:

13 CCR Section 1201 did not specify the applicability of the definitions contained in that section. This section is amended to reflect that applicability.

##### 13 CCR 1201(c):

13 CCR Section 1201(c) used the term “driver logs” to refer to the records required to be maintained by the driver and co-driver. Since the term “driver logs” is an informal reference to the proper term “driver’s records of duty status,” this section is amended to reflect the proper terminology.

13 CCR 1201(d):

Subdivision (k) of Section 34500 VC was added to statute effective January 1, 1992, requiring the CHP to regulate the safe operation of commercial motor vehicles with a gross vehicle weight rating of 26,001 or more pounds. The term “commercial motor vehicle” is defined in Section 15210 VC, for purposes of that section, as “any vehicle or combination of vehicles which requires a class A or class B license, or a class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278 VC.” Section 34500.5 VC applies that definition to Division 14.8 of that code. This amendment adopts the same definition for use in regulation.

13 CCR 1201(h):

13 CCR 1201(h) is added to define the term “driving time” to differentiate between the time spent at the driving controls of a *commercial* motor vehicle and time spent at the controls of *any* motor vehicle, previously defined by the term “drive or operate.” This amendment will ensure consistency with federal regulations when recording the on-duty status of a regulated driver.

13 CCR 1201(n):

13 CCR Section 1201(n) defines “interstate driver.” Included in that definition are references to both “hazardous substances” and “hazardous wastes” as defined in Title 49, Code of Federal Regulations (49 CFR) Section 171.8, published on October 1, 1992. The definition of these terms has not changed since October 1, 1992, however, the current 49 CFR publication date is October 1, 2000. Since the most recent version of 49 CFR is the information available to and used by the motor carrier industry, 13 CCR Section 1201(n) should be amended to refer to the current publication date, eliminating the need for the regulated public to maintain copies of the older version in addition to the current version.

13 CCR 1201(o):

13 CCR Section 1201(o) defines “intrastate driver.” This definition is updated in the same manner as described above under 13 CCR 1201(n), for the same reason.

13 CCR 1201(q):

13 CCR 1201 (q) defines the term “motor carrier,” however, the term “carrier” is often used for brevity with the same intended meaning. This amendment will permit those terms to be used interchangeably, within this chapter of the code.

13 CCR 1201(s):

13 CCR Section 1201(s) defines “on-duty time” for driver’s record of duty status and/or time keeping record purposes. The Federal Highway Administration, predecessor of the new Federal Motor Carrier Safety Administration, amended the definition of on-duty time in 49 CFR Part 395 to include all time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the controlled substances and alcohol testing (CSAT) requirements of 49 CFR Part 382. Section 34501.2 VC requires the CHP to adopt drivers’ hours-of-service regulations which are consistent with those in 49 CFR Part 395.

Since California has adopted the federal CSAT requirements in Vehicle Code Section 34520, the definition of “on-duty time” in 13 CCR Section 1201(s) is affected by the federal rulemaking

action. Even if California had not adopted the federal CSAT regulations, it would still be necessary to redefine “on-duty time” for interstate drivers, to remain consistent with the federal regulations on driver’s hours-of-service governing those drivers.

13 CCR 1201(s)(3) also included reference to the terms “drive or operate” and “driving time” for defining on-duty time. This amendment removes the reference to drive or operate, as the activity defining the term “driving time” is already listed in 13 CCR 1201(j).

Additionally, 13 CCR 1201(s)(10) required all driving performed for a nonmotor carrier entity to be counted against a driver’s total available driving hours. This time should be counted as on-duty time only and not count against available driving hours. It should be noted that the hours-of-service regulations are safety rules, not labor laws. As such, they should not be considered to dictate time for which drivers must be paid, as they apply even to unpaid, volunteer drivers. Pay issues are controlled by other statutes and labor contracts.

The CHP deleted this requirement and amended this section to count all time spent driving *non-regulated* vehicles for any employer, whether a motor carrier or not, as on-duty, not driving. This proposal will ensure consistency with current federal hours-of-service regulations as required by 34501.2 VC.

13 CCR 1213.2(i):

13 CCR 1213.2(i) uses the term “driver’s log grid forms” to refer to the blank record required to be in the possession of a driver when utilizing an automatic on-board recording device. Since the term “driver’s log grid forms” is an informal reference to the proper term “driver’s records of duty status graph-grids,” this section is amended to reflect the proper terminology.

**WRITTEN COMMENT PERIOD**

No written comments were received during the open comment period.

**PUBLIC HEARINGS**

No public hearing was requested during the open comment period; therefore, no hearing was held.

**STUDIES/RELATED FACTS**

None.

**ALTERNATIVES**

The CHP has not identified any alternative that would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected persons than the proposed action.

1. Amend the existing regulations to provide clarification and maintain consistency with existing federal regulations.
2. Make no changes to the existing regulations. Leaving the regulation as it is could result in inconsistency with equivalent federal regulations, in violation of VC 34501.2(a).

### **LOCAL MANDATE**

These regulations do not impose any new mandates on local agencies or school districts.

### **IMPACT ON BUSINESSES**

The CHP has not identified any significant adverse impact on businesses.

### **ECONOMIC IMPACT**

The Department has determined that these regulatory amendments will result in:

- No significant compliance costs.
- No discernible adverse impact on the level and distribution of costs and prices for large and small businesses.
- No impact on the level of employment in the state.